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COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, SEPTEMBER 11, 1998

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

v.

CASE NO. PUE980602

ROBERT A. WINNEY D/B/A
THE WATERWORKS COMPANY OF
FRANKLIN COUNTY,
Defendant

RULE TO SHOW CAUSE

By Interim Order issued February 27, 1998, in Case No. PUE970119, Application of Robert A. Winney d/b/a The Waterworks Company of Franklin County, for a certificate of public convenience and necessity authorizing the furnishing of water (Document Control No. 980230110, filed February 27, 1998), the State Corporation Commission directed Robert A. Winney d/b/a The Waterworks Company of Franklin County to make a refund of thirty-five dollars and thirty-three cents (\$35.33) to certain customers of The Waterworks Company of Franklin County by March 18, 1998. The Commission also prescribed quarterly rates for service provided on and after February 27, 1998. By Order Modifying Refund Date issued April 28, 1998, in Case No. PUE970119, Application of Robert A. Winney d/b/a The Waterworks Company of Franklin County, for a certificate of

public convenience and necessity authorizing the furnishing of water (Document Control No. 980440166, filed April 28, 1998), the State Corporation Commission extended the date for making the refund to July 15, 1998. The State Corporation Commission further directed Robert A. Winney d/b/a The Waterworks Company of Franklin County to file with Clerk of the Commission on or before August 17, 1998, a document setting out the name and address of each customer paid a refund; the check number of the refund check made to each customer; and the date the refund check was sent to the customer.

On August 21, 1998, the Commission Staff filed its Motion Requesting Issuance of Certificate and Rule to Show Cause in Case No. PUE9700119, Application of Robert A. Winney d/b/a The Waterworks Company of Franklin County, for a certificate of public convenience and necessity authorizing the furnishing of water. In its motion, the Staff alleged that Robert A. Winney d/b/a The Waterworks Company of Franklin County had failed to comply with the following requirements of the Interim Order of February 27, 1998, as revised by the Order Modifying Refund Date of April 28, 1998

(1) Robert A. Winney d/b/a The Waterworks Company of Franklin County had not filed two quadrangle maps of the 7.5 minute Series (Topographic) published by the U.S. Department of the Interior and the Commonwealth of Virginia showing the boundaries of the service territory, as discussed at 4-5 of the Interim Order of February 27, 1998.

(2) Robert A. Winney d/b/a The Waterworks Company of Franklin County had not filed by March 18, 1998, a schedule of rates, charges, rules and regulations bearing an effective date of February 27, 1998, as discussed at 5, 6, and 7 of the Interim Order of February 27, 1998, and directed by ordering paragraph (3) of Interim Order of February 27, 1998.

(3) Robert A. Winney d/b/a The Waterworks Company of Franklin County had not refunded by July 15, 1998, thirty-five dollars and thirty-three cents (\$35.33) to each customer paying an availability charge due January 15, 1998, as discussed at 5-6 of the Interim Order of February 27, 1998, and in the Order Modifying Refund Date of April 28, 1998, and directed by ordering paragraph (2) of the Order Modifying Refund Date of April 28, 1998.

(4) Robert A. Winney d/b/a The Waterworks Company of Franklin County had not filed with the Clerk of the Commission by August 17, 1998, a document setting out the name and address of each customer paid a refund; the check number of the refund check made to each customer; and the date the refund check was sent to each customer, as directed by ordering paragraph (3) of the Order Modifying Refund Date of April 28, 1998.

By Order on Motion issued August 24, 1998, in Case No. PUE970119, Application of Robert A. Winney d/b/a The Waterworks Company of Franklin County, for a certificate of public convenience and necessity authorizing the furnishing of water (Document Control

No. 98030367, filed August 24, 1998), the Commission authorized Robert A. Winney d/b/a The Waterworks Company of Franklin County to respond to the Staff's motion. No response was filed.¹

It appears to the Commission that a proceeding should be commenced to consider the following allegations made by the Commission Staff.

(1) Robert A. Winney d/b/a The Waterworks Company of Franklin County failed to make by July 15, 1998, a refund of thirty-three dollars and thirty-three cents (\$35.33) to each customer paying an availability charge due January 15, 1998, as ordered by the Commission.

(2) Robert A. Winney d/b/a The Waterworks Company of Franklin County failed to file an appropriate tariff and apply the prescribed rates and charges on and after February 27, 1998, as ordered by the Commission.

Accordingly,

IT IS ORDERED THAT:

(1) This matter be docketed as Case No. PUE980602 and that all associated papers be filed therein.

¹ On September 2, 1998, the Clerk of the Commission and the Office of General Counsel received a letter dated August 31, 1998, which referred to the Company and this case. The letter was not signed and it did not include a full name or a return address. While the Commission liberally applies its Rules of Practice and Procedure, especially in situations involving small water companies, it will not consider anonymous correspondence.

(2) Robert A. Winney d/b/a The Waterworks Company of Franklin County appear before the State Corporation Commission at 10:00 a.m. on December 3, 1998, in the Commission's courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia, and show cause why the Commission should not impose a fine for failing or refusing to obey an order, as provided by § 12.1-33 of the Code of Virginia, or punish for contempt by fine or by confinement, as provided by § 12.1-34 of the Code of Virginia, for failure to make a refund, as alleged, and for failure to file and apply prescribed rates and charges, as alleged.

(3) On or before October 22, 1998, Robert A. Winney may file with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia, 23218-2118, an answer to this rule to show cause, as provided by Rule 5:16(c) of the Commission's Rules of Practice and Procedure, 5 VAC 5-10-420(c); This answer may address the following allegations:

(1) Robert A. Winney d/b/a The Waterworks Company of Franklin County failed to make by July 15, 1998, a refund of thirty-three dollars and thirty-three cents (\$35.33) to each customer paying an availability charge due January 15, 1998.

(2) Robert A. Winney d/b/a The Waterworks Company of Franklin County failed to file an appropriate tariff and apply the prescribed rates and charges on and after February 27, 1998;

and such other matters as Robert A. Winney d/b/a The Waterworks Company of Franklin County may wish to bring before the Commission.

(4) The Clerk of the Commission shall forthwith mail by certified mail with return receipt three (3) attested copies of this Rule to Show Cause to the Honorable W. Q. Overton, Sheriff of Franklin County, 70 East Court Street, Rocky Mount, Virginia 24151-1720, and enclose therein an addressed stamped envelope for the Sheriff's return.

(5) As provided by §§ 12.1-29, 14.1-87, and 17.1-266 (effective October 1, 1998) of the Code of Virginia, the Sheriff of Franklin County or his Deputy is requested to serve this Rule of Show Cause on Robert A. Winney, 430 Windtree Drive, Moneta, Virginia 24121-3106, in Franklin County, and to make his return to the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118.